

Condensed Title:

Request for approval to issue a Request For Proposals (RFP) for Red Light Violation Camera Enforcement System and related support services.

Key Intended Outcome Supported:

Increase resident ratings of public safety services.

Supporting Data (Surveys, Environmental Scan, etc.): Safety across the City was rated as the number one most important area regarding quality of life in the City of Miami Beach. Enforcing traffic laws was rated as one of the areas that the City can address in regards to public safety.

Issue:

Shall the Mayor and City Commission approve the issuance of a RFP?

Item Summary/Recommendation:

At the September 24, 2008 meeting of the Neighborhoods/Community Affairs Committee, an Ordinance which created a municipal violation for running a red traffic signal and also providing for unmanned cameras/monitoring devices for such violations was discussed.

At the meeting, the Committee members were not able to come to a consensus on the adoption of specific conditions within the Ordinance (copy attached). However, the Committee members did vote to support the issuance of a Request for Proposals for camera equipment and support services from a vendor to provide for such enforcement services. It was the Committees belief that with the time associated with an RFP process the details of an Ordinance could be refined and adopted so as to be in place and available to the City before t he need to act on RFP's received for the services.

If members of the City Commission have a sufficient comfort level with the key concepts and the operational approach associated with a red light camera enforcement program, issuance of an RFP as outlined in this memorandum for a Scope of Services is appropriate and recommended. To the extent the members of the City Commission have concerns or issues with the Ordinance prior to the issuance of an RFP, it will be suggested that the City Commission refer the item for additional discussion to an appropriate Committee to resolve to clear up any concerns.

Advisory Board Recommendation:

Financial Information:

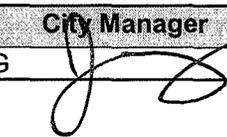
Source of Funds:		Amount	Account
<div style="border: 1px solid black; width: 50px; height: 50px; display: inline-block;"></div> OBPI	1		
	2		
	3		
	Total		

Financial Impact Summary:

City Clerk's Office Legislative Tracking:

Robert C. Middaugh, Assistant City Manager

Sign-Offs:

Department Director	Assistant City Manager	City Manager
	 RCM	 JMG

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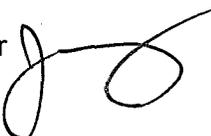


MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager 

DATE: October 7, 2008

SUBJECT: **REQUEST FOR APPROVAL TO ISSUE A REQUEST FOR PROPOSALS (RFP) FOR RED LIGHT VIOLATION CAMERA ENFORCEMENT SYSTEM AND RELATED SUPPORT SERVICES.**

ADMINISTRATION RECOMMENDATION

If City Commission guidance can be provided on key provisions within the RFP, approve the issuance of the RFP.

ANALYSIS

At the September 24, 2008 meeting of the Neighborhoods/Community Affairs Committee, an Ordinance which created a municipal violation for running a red traffic signal and also providing for unmanned cameras/monitoring devices for such violations was discussed.

At the meeting, the Committee members were not able to come to a consensus on the adoption of specific conditions within the Ordinance (copy attached). However, the Committee members did vote to support the issuance of a Request for Proposals for camera equipment and support services from a vendor to provide for such enforcement services. It was the Committees belief that with the time associated with an RFP process the details of an Ordinance could be refined and adopted so as to be in place and available to the City before the need to act on RFP's received for the services.

Adoption of an Ordinance similar in nature to that attached, which would provide for a municipal violation, is a necessary precursor to selecting a vendor for equipment to address red light violations. Without the adoption of an Ordinance similar to that attached, the City has no ability to write a violation under other existing motor vehicle laws or State Statutes. Given the pivotal importance of an Ordinance that establishes red light violations as a municipal violation, so long as the members of the City Commission are in general agreement as to the key principles that might be contained within an Ordinance, issuance of an RFP can proceed as anticipated by the Committee members.

Within the Ordinance that had been referred to the Neighborhoods/Community Affairs Committee, key concepts for which some level of City Commission agreement would be important prior to the issuance of an RFP include the following:

- The Ordinance provides that running a red light is a municipal violation subject to a City imposed fine. Fines proposed in the Ordinance are as follows:

First violation	-	\$125.00
Second violation	-	\$250.00
Third & subsequent violations	-	\$500.00

As the level of fine imposed is critical to the RFP responses received and the financial feasibility of such a program, if the members of the City Commission have concerns or disagreements with such violations it would be important to address those concerns prior to the issuance of an RFP.

- The issuance of the RFP anticipates that the vendor that would be selected to provide for camera equipment would also provide for collection of fines as part of the related services. The collection of fines by a third party vendor would in many ways be similar to debt collection agencies that pursue outstanding accounts in the private sector.

If this approach to the provision of services is not acceptable to the City Commission it would be a significant impact in the RFP.

- The Ordinance establishes that a red light violation be issued to the vehicle owner which would include those individuals who had the consent of the owner to operate the vehicle. The Ordinance also provides for a procedure that owners can appeal and provide evidence that the car was not under their control or operated by person(s) with the owners consent.
- The red light enforcement program and Ordinance anticipates that the only violation that can be written by the City is a municipal violation, which is civil in nature. This level of violation does not attach any points to a driver's record and is not recorded as part of the driver's record.
- If this level of penalty is not acceptable to the Commission, it would be appropriate to express such concerns prior to the issuance of an RFP as this would very likely be the basis for the program not to continue.
- While not a condition of the RFP, a red light enforcement program would also provide for a continuous photo record of the subject intersections. It is anticipated that these photo records would be available to the Police Department in helping to resolve crimes. While helpful to the Police Department, if this record is seen as problematic, those concerns should be addressed before issuance of the RFP.

To the extent that members of the City Commission are in general agreement with the key points raised previously, the scope of services for an RFP would include the following:

Scope:

The purpose of the RFP is to enter into a contract for the delivery and maintenance of unmanned cameras/monitoring devices also known as traffic control signal monitoring system for red traffic light violations with a vendor capable of a turnkey solution for design,

implementation and maintenance. The successful vendor will provide for the appropriate hardware and administrative support to ensure a credible and reliable electronic camera recording system. The traffic control signal monitoring system will have the capability when utilizing one or more sensors to work in conjunction with a traffic control signal, still camera and video recording device, to capture and produce recorded images of motor vehicles entering into an intersection against a steady red light signal. The cameras will be installed by the vendor at no cost to the City of Miami Beach at traffic intersections at the direction of representatives of the Miami Beach Police Department.

The photographic color images produced by the camera will be of a quality to clearly identify the driver, license plate, vehicle color, manufacturer and model. The camera will have the technology to capture the image at the precise time the vehicle breaks the plane of an intersection where the traffic signal light turns red. The vendor will provide a representative to work closely with a trained law enforcement officer from the Miami Beach Police Department to verify each red light infraction. As a result of the infraction, the owner/driver of the offending vehicle will be issued an infraction notice with the photographs of the violation from the vendor. The infraction will impose a fine that when paid, the revenue will be split in a percentage agreeable to the City of Miami Beach and the vendor. The City of Miami Beach agrees to assist the vendor in identifying the owner of the offending vehicle driver, their owner registration in an effort to determine the address to send the infraction. All repair and maintenance of the cameras and related equipment will be the sole responsibility of the vendor, including but not limited to maintaining the casings of the cameras and the vendor system and at no cost to the City of Miami Beach.

Initial installation of cameras is anticipated to be at ten (10) street intersections.

CONCLUSION

If members of the City Commission have a sufficient comfort level with the key concepts and the operational approach associated with a red light camera enforcement program, issuance of an RFP as outlined in this memorandum for a Scope of Services is appropriate and recommended. To the extent the members of the City Commission have concerns or issues with the Ordinance prior to the issuance of an RFP, it will be suggested that the City Commission refer the item for additional discussion to an appropriate Committee to resolve or clear up any concerns.

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ORDINANCE

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, CREATING ARTICLE XI, TO BE ENTITLED "DANGEROUS INTERSECTION SAFETY," OF CHAPTER 106, ENTITLED "TRAFFIC AND VEHICLES," OF THE MIAMI BEACH CITY CODE, PROVIDING FOR INTENT AND DEFINITIONS; ESTABLISHING AN ENFORCEMENT PROGRAM WITHIN THE CITY; AUTHORIZING THE CITY TO PERMIT AND IMPLEMENT THE USE OF UNMANNED CAMERAS/MONITORING DEVICES FOR RED LIGHT VIOLATIONS; PROVIDING ENFORCEMENT PROCEDURES, INCLUDING NOTICE, APPEAL HEARINGS, PENALTIES, THE IMPOSITION OF ADMINISTRATIVE CHARGES, AND THE COLLECTION THEREOF; PROVING FOR EXCEPTIONS; AND PROVIDING FOR CODIFICATION; SEVERABILITY; REPEALER; AND AN EFFECTIVE DATE.

WHEREAS, the running of red lights at intersections causes a safety hazard affecting every citizen and visitor in the City of Miami Beach ("City"); and

WHEREAS, the Mayor and City Commission are concerned with the inability to sufficiently enforce provisions in the Florida Statutes prohibiting the running of red lights due to the requirement that enforcement of the State statutory provisions require the personal observation of police officers; and

WHEREAS, the Mayor and City Commission wish to reduce the running of red lights in the City by creating an additional code enforcement procedure therefor; and,

WHEREAS, local governments in different parts of the state and country have demonstrated the enhancement of vehicular and pedestrian traffic safety attributable to the integration of automated image capture technologies with traditional traffic law enforcement methodology; and

WHEREAS, § 316.008 of the Florida Statutes grants municipalities, with respect to streets and highways under their jurisdiction and within the reasonable exercise of their police power, the authority to regulate and monitor traffic by means of police officers and security devices; and

WHEREAS, the City of Miami Beach has home rule authority pursuant to Article VII, Section 2 of the Florida Constitution and Chapter 166, Florida Statutes, to enact an ordinance making the failure to stop for a red light signal a violation of the City Code, and to provide for enforcement of such violations of the City Code through the use of the City's Special Masters; and

WHEREAS, Florida Attorney General Opinion 2005-41, dated July 12, 2005, provides authority for the City to enact an ordinance making the failure to stop at a red light signal a violation of the City Code, to use unmanned cameras to monitor intersections in the City for such violations of the City's Code, and to record the license tag numbers of vehicles involved in such violations; and

WHEREAS, the Florida Attorney General has opined that cities may not issue traffic citations under the State Statutes to drivers for violations observed by the use of unmanned cameras and not otherwise observed by police officers; and

WHEREAS, the Mayor and City Commission of the City of Miami Beach find that the implementation of the code enforcement program for red light violations, as set forth herein, will promote, protect, and improve the health, safety, and welfare of its citizens, consistent with the authority granted to and the limitations on municipalities pursuant to the Florida Constitution and the Florida Statutes.

NOW, THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. That Article XI, to be entitled "Dangerous Intersection Safety," of Chapter 106 of the Miami Beach City Code, entitled "Traffic and Vehicles," is hereby created as follows:

CHAPTER 106

TRAFFIC AND VEHICLES

* * *

Article XI. Dangerous Intersection Safety.

Sec. 106 – 480. Intent.

The purpose of this Article is to authorize the use of an unmanned cameras/monitoring system to promote compliance with red light signal directives as proscribed this Article, and to adopt a civil enforcement system for red light signal violations. This Article will also supplement law enforcement personnel in the enforcement of red light signal violations and shall not prohibit law enforcement officers from issuing a citation for a red light signal violation in accordance with statutory traffic enforcement techniques.

Sec. 106 – 481. Use of Image Capture Technologies.

The City shall utilize image capture technologies as a supplemental means of monitoring compliance with laws related to traffic control signals, while assisting law enforcement personnel in the enforcement of such laws, which are designed to protect and improve public health, safety and welfare. This Article shall not supersede, infringe, curtail, or impinge upon state laws related to red light signal violations or conflict with such laws. The City shall utilize image capture technologies as an ancillary deterrent to traffic control signal violations to reduce accidents and injuries associated with such violations. Notices of infractions issued pursuant to this Article shall be enforced using the city's special masters and not uniform traffic citations or county courts.

Sec. 106 – 482. Definitions.

The following definitions shall apply to this Article:

- (a) Intersection shall mean the area embraced within the prolongation or connection of the lateral curb line; or, if none, then the lateral boundary

lines of the roadways of two roads which join or intersect one another at, or approximately at, right angles; or the area within which vehicles traveling upon different roads joining at any other angle may come in conflict.

- (b) Motor vehicle shall mean any self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, motorized scooter, motorized device used by disabled persons, electric personal assisted mobility device, or moped.
- (c) Notice of Infraction shall mean a city code citation issued for a red zone infraction.
- (d) Owner/Vehicle Owner shall mean the person or entity identified by the Florida Department of Motor Vehicles, or other state vehicle registration office, as the registered owner of a vehicle. Such term shall also mean a lessee of a motor vehicle pursuant to a lease of six months or more.
- (e) Recorded Images shall mean images recorded by a traffic control signal monitoring system/device:
1. On:
 - Two or more photographs, or
 - Two or more electronic images; or
 - Two or more digital images, or
 - Digital or video movies; or
 - Any other medium that can display a violation; and
 2. Showing the rear of a motor vehicle and, on at least one image, clearly identifying the license plate number of the motor vehicle.
- (f) Red Zone Infraction shall mean a city code violation whereby a traffic control signal monitoring system established that a motor vehicle entered an intersection controlled by a duly erected traffic control device at a time when the traffic control signal for such vehicle's direction of travel was emitting a steady red light.
- (g) Special Master shall mean the City's Special Masters.
- (h) Traffic Control Signal shall mean a device exhibiting different colored lights or colored lighted arrows successively, one at a time, or in combination, using only the colors green, yellow, and red which indicate and apply to drivers of motor vehicles as provided in Florida Statutes § 316.075.

- (l) Traffic Control Signal Monitoring System/Device shall mean a system consisting of one or more vehicle sensors, working in conjunction with a traffic control signal, still camera and video recording device, to capture and produce recorded images of motor vehicles entering an intersection against a steady red light signal.

Sec. 106 – 483. Adherence to red light traffic control signals.

Motor vehicle traffic facing a traffic control signal's steady red light indication shall stop before entering the crosswalk on the near side of an intersection or, if none, then before entering the intersection, and shall remain stopped until a green light indication is shown on the traffic control signal; however the driver of a vehicle which is stopped at a clearly marked stop line, but if none, before entering the crosswalk on the near side the intersection or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection in obedience of a steady red light indication from a traffic control signal, may make a right turn (unless such turn is otherwise prohibited by posted sign or other traffic control device), but shall yield right-of-way to pedestrians and other traffic proceeding as directed by the traffic control signal at the intersection.

Sec. 106-484. Violation/Red Zone Infraction.

A violation of this Article, known as a red zone infraction, shall occur when a vehicle does not comply with the requirement of Sec. 106 - 483. Violations shall be enforced as provided in this Article.

Sec. 106 – 485. Review of recorded images.

- (a) The owner of the vehicle which is observed by recorded images committing a red zone infraction, shall be issued a notice of infraction. The recorded image shall be sufficient grounds to issue a City notice of infraction.
- (b) The City shall designate a traffic control infraction review officer, who shall meet the qualifications set forth in §316.640(5)(a), Florida Statutes, or any other relevant statute. The traffic control infraction review officer shall review recorded images prior to the issuance of a notice of infraction to ensure accuracy and the integrity of the recorded images. The traffic control infraction officer shall also verify that the traffic control monitoring system/devices which captured the recorded images were functioning properly at the time the recorded images were captured. Once the traffic control infraction review officer has verified the accuracy of the recorded images and functionality of the traffic control monitoring system/devices, he or she shall complete a report, and a notice of infraction shall be sent to the vehicle owner at the address on record with the Florida Department of Highway Safety and Motor Vehicles.

Sec. 106 – 486. Notice of Infraction.

The Notice of Infraction shall include:

- (a) The name and address of the vehicle owner;
- (b) The license plate number and registration number of the vehicle;
- (c) The make, model, and year of the vehicle;
- (d) Notice that the red zone infraction charged is pursuant to this Article;
- (e) The location of the intersection where the red zone infraction occurred;
- (f) The date and time of the red zone infraction;
- (g) Notice that the recorded images relating to the vehicle and a statement that the recorded images are evidence of a red zone infraction;
- (h) The civil penalty imposed;
- (i) Images depicting the red zone infraction;
- (j) The procedures for payment of the civil penalty and contesting the notice of infraction;
- (k) A signed statement by the traffic control infraction officer that, based on inspection of recorded images, the vehicle was involved in a red zone infraction;
- (l) Information advising the person alleged to be liable under this Article, the manner and time in which liability as alleged in the notice of infraction may be appealed and warning that failure to pay the civil penalty or to contest liability in a timely manner is an admission of liability.

Sec. 106 – 487. Vehicle Owner Responsibilities.

A vehicle owner receiving a notice of infraction shall, within twenty (20) days of the date of the notice of infraction:

- (a) Pay the assessed civil penalty pursuant to instructions on the notice of infraction;
or
- (b) Request an appeal pursuant with procedures as outlined in this Article.

The failure to comply with the provisions of this section within twenty (20) days from the date of the notice of infraction shall constitute a waiver of the right to contest the notice of infraction and will be considered an admission of guilt.

Sec. 106 – 488. Appeal to Special Master

The City's special masters are authorized to consider appeals under this Article if such appeal is filed within twenty (20) days of the date of the notice of infraction. The vehicle owner may file an appeal with the city pursuant to the directions in the notice of infraction. A hearing on the appeal shall be scheduled for all appeals except those in which the vehicle owner affirms under penalty of perjury that the vehicle was not under his or her care, custody or control, or the care, custody or control that of someone with the vehicle owner's consent.

(a) Upon receipt of the appeal, the city shall schedule a hearing before the special master. A notice of hearing shall be provided to the vehicle owner no less than ten (10) days prior to the hearing, and shall be provided by certified and U.S. mail to the same address to which the notice of infraction was sent.

(b) The following shall be permissible grounds for an appeal:

- (i) At the time of the infraction, the vehicle was not under the care, custody, or control of the vehicle owner or an individual with the vehicle owner's consent, as established pursuant to an affidavit as provided section 106 - 489;
- (ii) The motor vehicle driver was issued a citation by a law enforcement officer, which was separate and distinct from the citation issued under this Article, for violating the steady red light from a traffic control signal;
- (iii) The motor vehicle driver was required to violate the steady red light from a traffic control signal in order to comply with other governing laws;
- (iv) The motor vehicle driver was required to violate the steady red light from a traffic control signal in order to reasonably protect the property or person of another;
- (v) The steady red light from a traffic control signal was inoperable or malfunctioning; or

(c) The traffic control infraction review officer, vehicle owner, and/or responsible party may testify and present evidence at the appeal hearing. All testimony shall be under oath and shall be recorded. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern all proceedings.

- (d) Recorded images indicating a red zone infraction, verified by the traffic control infraction review officer, are admissible in any proceeding before the City's special master to enforce the provisions of this Article, and shall constitute prima facie evidence of the violation.
- (e) Unless an affidavit is provided pursuant to Section 106 - 489, it is presumed that the person registered as the vehicle owner with the Florida Department of Motor Vehicles, or any other state vehicle registration office, or an individual having the owner's consent, was operating the vehicle at the time of a red zone infraction.

Sec. 106-489. Vehicle Owner Affidavit of Non-responsibility.

In order to for the vehicle owner to establish that the motor vehicle was, at the time of the red zone infraction, in the care, custody, or control of another person without the consent of the registered owner, the vehicle owner is required, within twenty (20) days from the date listed on the notice of infraction, to furnish to the City, an affidavit setting forth the circumstances demonstrating that the motor vehicle was not in the vehicle owner's care custody or control, or that of a person with vehicle owner's consent. The affidavit must be executed in the presence of a notary, and include:

- (a) If known to the vehicle owner, the name, address, and the driver's license number of the person who leased, rented or otherwise had care, custody or control of the motor vehicle at the time of the alleged red zone infraction; or
- (b) If the vehicle was stolen, the police report indicating the vehicle was stolen at the time of the alleged red zone infraction.
- (c) The following language immediately above the signature line: "Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true."

Upon receipt of an affidavit pursuant to this section, any prosecution of the notice of infraction issued to the vehicle owner shall be terminated.

Sec. 106 - 490. Penalties.

A violation of this Article shall be deemed a non-criminal, non-moving violation for which the following civil penalties shall be assessed:

<u>First violation</u>	<u>\$125.00;</u>
<u>Second violation</u>	<u>\$250.00.</u>
<u>Third, or subsequent violations</u>	<u>\$500.00.</u>

A violation of this Article is not a violation of the State Statutes; therefore, no points as provided in § 322.27, Florida Statutes, shall be recorded on the driving record of the vehicle owner or responsible party.

Sec. 106 – 491. Administrative Charges.

In addition to the penalties set forth in section 106 - 490, administrative charges may be assessed in the event of an appeal or the necessity to institute collection procedures.

Sec. 106 – 492. Collection of Fines.

The City may establish procedures for the collection of penalties and administrative charges imposed herein, and may enforce such penalties by civil collection proceedings.

Sec. 106 – 493. Failure to pay or appeal notice of code violations.

Failure to pay the civil fee or file an appeal within twenty (20) days after the notice of infraction is mailed to, or personally served upon, the motor vehicle owner shall result in the motor vehicle owner paying the costs and attorney's fees required to collect the civil fee in addition to any other fees and charges. If the motor vehicle owner files an appeal and is unsuccessful, the motor vehicle owner shall be responsible for paying the costs and attorney's fees required to collect the fee, including costs associated with the appeal, in addition to any other fees and costs.

Sec. 106 – 494. Exceptions.

This Article shall not apply to red zone infractions involving vehicle collisions or to any authorized emergency vehicle responding to a bona fide emergency; nor shall a notice of infraction be issued in any case where the operator of the vehicle was issued a citation for violating the state statute regarding the failure to stop at a steady red light from a traffic control signal.

SECTION 3. Repealer.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 4. Severability.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 5. Codification.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 6. Effective Date.

This Ordinance shall take effect the _____ day of _____, 2008.

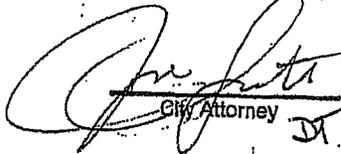
PASSED and ADOPTED this _____ day of _____, 2008.

ATTEST:

MAYOR

CITY CLERK

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney

9/4/08

Date